

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

5577-333

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on

Signature

Typed or printed name

Audra Wooten

Application Number

09/930,360

Filed

August 15, 2001

First Named Inventor

Brabson et al.

Art Unit

3431

Examiner

Nghi V. Tran

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

☒

attorney or agent of record.

Registration number 40,133

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

David K. Purks  
Signature

David K. Purks

Typed or printed name

(919) 854-1400

Telephone number

October 12, 2005

Date

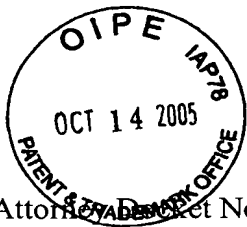
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☐

\*Total of forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



**RESPONSE UNDER 37 C.F.R. § 1.116  
EXPEDITED PROCEDURE – EXAMINING GROUP 2151**

Attorney Docket No. RSW920010057US1/5577-333

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re: Roy F. Brabson et al.

Group Art Unit: 2151

Application No.: 09/930,360

Examiner: Nghi V. Tran

Filed: August 15, 2001

Conf. No.: 3431

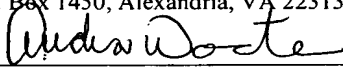
For: **EFFICIENT CONNECTIVITY BETWEEN MULTIPLE TOPOLOGY  
SUBNETS VIA COMMON CONNECTION NETWORK**

October 12, 2005

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Certificate of Mailing under 37 CFR § 1.8**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 12, 2005.

  
Audra Wooten

**REASONS IN SUPPORT OF APPLICANTS'  
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

This document is submitted in support of the Pre-Appeal Brief Request for Review that is filed concurrently herewith along with a Notice of Appeal in compliance with 37 C.F.R. 41.31 and with the rules set out in the OG Notice of July 12, 2005 for the New Appeal Brief Conference Pilot Program.

It is not believed that an extension of time and/or additional fee(s)-including fees for net addition of claims-are required, beyond those that may otherwise be provided for in documents accompanying this paper. In the event, however, that an extension of time is necessary to allow consideration of this paper, such an extension is hereby petitioned under 37 C.F.R. §1.136(a). Any additional fees believed to be due in connection with this paper may be charged to our Deposit Account 09-0461.

**REMARKS**

Applicants hereby request a Pre-Appeal Brief Review (hereinafter "Request") of the claims finally rejected in the Final Office Action mailed July 12, 2005 ("Final Office Action") and the Advisory Opinion mailed October 3, 2005 ("Advisory Opinion"). The Request is provided herewith in accordance with the rules set out in the OG dated July 12, 2005. Applicants have filed concurrently herewith an Amendment After final in which Claims 2, 6,

and 9 have been amended to independent form including all of the recitations from the independent claims from which they formerly depended, and independent Claims 1, 4, 5, and 8 have been canceled. Accordingly, only Claims 2, 3, 6, 7, 9, and 10 are pending in this application.

Claims 2, 6, 9 stand finally rejected under 35 U.S.C. Sec. 102(e) as anticipated by U.S. Patent Application Publication No. 2001/0044842 to Kawakami (hereinafter "Kawakami"). Claims 3, 7, and 10 stand finally rejected under 35 U.S.C. Sec. 103(a) as unpatentable by Kawakami in view of U.S. Patent No. 6,026,077 to Iwata.

Applicants submit that the rejections are based on a clear error in understanding the applied references, and that the Final Office Action and Advisory Opinion have failed to establish anticipation of Claims 2, 6, and 9. Accordingly, Applicants request review of the present application by an appeal conference prior to the filing of an appeal brief. In the interest of brevity and without waiving the right to argue additional grounds should this Petition be denied, Applicants will only discuss the particular errors made in the rejections of the independent Claims 2, 6, and 9.

Claim 2 recites (emphasis added):

2. A method of improving connectivity among topology subnets using a common connection network, comprising:  
determining, by a border node located at a border of a particular one of the topology subnets, one or more links between the border node and a neighboring border node located at the border of a different one of the topology subnets, wherein a first session endpoint resides in the particular one of the topology subnets and has connectivity to a global virtual routing node ("GVRN");  
creating a list of the determined links;  
determining that the first session endpoint has connectivity to the GVRN and adding link information to the created list to represent the determined connectivity of the first session endpoint to the GVRN;  
forwarding the list to the neighboring border node;  
receiving, at the neighboring border node, the list;  
determining whether a second session endpoint, which resides in the different one of the topology subnets, has connectivity to the GVRN or to another GVRN, and, when the second session endpoint has connectivity to the GVRN or to another GVRN, adding link information to the list to represent the determined connectivity; and  
using the list to select a data transmission path between the first session endpoint and the second session endpoint.

Independent Claims 6 and 9 contain corresponding system and computer program product recitations. Applicants respectfully submit that at least the highlighted recitations of Claim 2, and the corresponding recitations of Claims 6 and 9, are not disclosed by Kawakami.

Accordingly, the Final Office Action and Advisory Opinion have failed to establish anticipation of Claim 2 and corresponding Claims 6 and 9.

In rejecting Claim 2, the Final Office Action erroneously contends on Page 3 that Kawakami teaches "determining that the first session endpoint has connectivity to the GVRN and adding link information to the created list to represent the determined connectivity of the first session endpoint to the GVRN" at paragraphs 63-68. In making this rejection, the Final Office Action has merely copied the recitation of Claim 2 and provided no specific explanation of how the cited paragraphs 63-68 of Kawakami disclose this recitation.

Applicants note that Kawakami discloses Virtual Private Network (VPN) tunnels within the same provider network C1. Thus, while Kawakami appears to disclose topology subnets, nowhere does it disclose a GVRN. Moreover, Kawakami does not disclose that a border node determines a first session endpoint has connectivity to a GVRN and that it adds the determined link information to a list of links created by a border node to represent the determined connectivity of the first session endpoint to the GVRN. The cited paragraphs 63-68 of Kawakami describe Virtual Routing (VR) tables within edge nodes. However, the disclosed VR table in each edge node contains link information for nodes connected to that edge node. Nowhere does Kawakami disclose that the VR table can include information of whether an edge node is connected to a GVRN. Accordingly, Applicants submit that the Final Office Action has failed to establish that Kawakami discloses "determining that the first session endpoint has connectivity to the GVRN and adding link information to the created list" as recited in Claim 2.

The Final Office Action erroneously contends on Page 3 that Kawakami discloses "forwarding the list to the neighboring node [paragraphs 0069-0076 i.e. update the content of the VR table and fig. 8]". However, the cited portion of Kawakami merely discloses that the VR tables are updated through a "Hello protocol" to discover the identify of connected nodes. (Kawakami, paragraph 69). Nowhere does Kawakami disclose that the VR table is forwarded to a neighboring node or, more particularly, that a list that has been updated with information that a first session endpoint has connectivity to the GVRN is forwarded to a neighboring node. Accordingly, Applicants submit that the Final Office Action has failed to establish that Kawakami discloses "forwarding the list to the neighboring border node" as recited in Claim 2.

The Final Office Action erroneously contends on Page 3 that Kawakami discloses "receiving the list at the neighboring border node" at paragraph 19, which is repeated below:

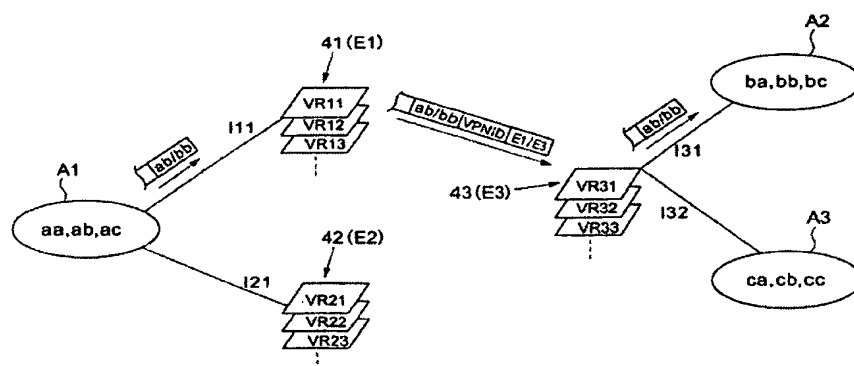
[0019] The encapsulating means may encapsulate a control packet on the basis of the capsule address for other customer network belonging on the same virtual private

network. The terminating means may include means for receiving and decoding the control packet generated in the customer network and means for updating data of the table according to the result of decoding. The terminating means may include means for removing capsule containing the capsule address for the packet arriving from the provider network to own device, and determining destination referring to the table on the basis of a destination IP address contained in the packet for feeding.  
(Kawakami, paragraph 19).

Accordingly, the cited portion of Kawakami discloses that a node receives a packet that that has a capsule address for a customer network belonging to the same virtual private network. Kawakami does not disclose that the neighboring border node receives a list containing information that a first session endpoint has connectivity to a GVRN. Accordingly, Applicants submit that the Final Office Action has failed to establish that Kawakami discloses "receiving, at the neighboring border node, the list".

The Final Office Action erroneously contends on Page 3 that Kawakami discloses at paragraphs 61-64 "determining whether a second session endpoint, which resides in the different one of the topology subnets, has connectivity to the GVRN or to another GVRN, and, when the second session endpoint has connectivity to the GVRN or to another GVRN, adding link information to the list to represent the determined connectivity." Again, the Final Office Action has merely copied the recitation of Claim 2 without providing any specific explanation of how the cited paragraphs of Kawakami disclose this recitation. Applicants note that the cited paragraphs describe the VR tables shown in FIG. 4 below:

FIG. 4 of Kawakami



As shown in FIG. 4 above, Kawakami discloses that the VR tables in node 41, 42, and 43 each contain node connection information about itself. Kawakami does not disclose that any of the VR tables contains information about whether the endpoint is connected to a GVRN. Moreover, Kawakami does not disclose that an endpoint, which resides in a different one of the topology

In re: Roy F. Brabson et al.  
Application No.: 09/930,360  
Filed: August 15,2001  
Page 5

subnets, determines whether it has connectivity to the same GVRN, which was identified in the list transmitted thereto by another border node, or to another GVRN, and, when the second session endpoint has connectivity to the GVRN or to another GVRN, adding link information to the list to represent the determined connectivity. Accordingly, Applicants submit that the Final Office Action and Advisory Opinion have failed to establish that Kawakami discloses this recitation of Claim 2.

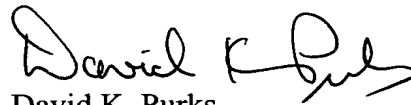
For at least these reasons, Applicants submit that the Final Office Action and Advisory Opinion have failed to establish that Kawakami discloses the underlined recitations of Claim 2 and, consequently, have failed to provide show anticipation of Claim 2.

Independent Claims 6 and 9 contain corresponding system and computer program product recitations to those of Claim 2. Consequently, Applicants submit that the Final Office Action and Advisory Opinion have failed to provide show anticipation of Claims 6 and 9 for the reasons explained above for Claim 2.

The dependent claims are patentable per the patentability of the independent claims from which they depend.

Therefore, Applicants respectfully request that the present application be allowed.

Respectfully submitted,



David K. Purks  
Registration No. 40,133

**USPTO Customer No. 46589**  
Myers Bigel Sibley & Sajovec  
Post Office Box 37428  
Raleigh, North Carolina 27627  
Telephone: 919/854-1400  
Facsimile: 919/854-1401